

AMENDED IN ASSEMBLY APRIL 22, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 164

**Introduced by Assembly Member Mendoza
(Coauthors: Assembly Members Anderson and Caballero)**

January 27, 2009

An act to add Section 35031.5 to the Education Code, relating to school districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 164, as amended, Mendoza. School districts: compensation of district superintendents.

Existing law establishes the system of public elementary and secondary education in this state. Under that system, the governing boards of school districts throughout the state operate elementary and secondary schools and are authorized to employ various employees and officers, including a district superintendent. Existing law authorizes the governing board of a school district to elect a district superintendent, among other officers, for a term of no more than 4 years.

~~This bill would, commencing January 1, 2010, prohibit the governing board of a school district from entering into an employment contract with a district superintendent that contains provisions that obligate the district or school to compensate the district superintendent for work that he or she has not performed. The bill in addition would, commencing January 1, 2010, require the governing board of a school district to include in any contract for the services of a district superintendent the provision that the district superintendent shall receive no retirement, medical, dental, or other benefits that would exceed the~~

benefits that a civil service employee of that district with a substantially similar salary would earn during an equivalent period of service.

This bill would, commencing January 1, 2010, require the governing board of a school district to include specified provisions in any contract for the services of a district superintendent, including the authority to terminate the district superintendent at any time during the term of the contract, with the district retaining an option, if the amount remaining in the contract is less than \$50,000, to either release a district superintendent from any further responsibilities with the district or to provide the former district superintendent with a full-time position with the district for which the former district superintendent is qualified.

The bill would specify that, if the district chooses to release the former district superintendent from any further responsibilities with the district, the former district superintendent would agree that any income he or she earns during the term of the contract as the superintendent or chief executive officer of a school district in the United States shall be offset from the amount otherwise owed to the former district superintendent under the contract. For terminations of contracts in which the amount remaining is \$50,000 or more, the school district would be required to provide the former district superintendent with a full-time position with the district for which the former district superintendent is qualified.

The bill would also require that the contract include a provision requiring that the district superintendent receive no retirement, medical, dental, or other benefits that would exceed the benefits that any certificated employee of the school district receives, but the bill would authorize the district to compensate the former superintendent for benefits actually earned.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 35031.5 is added to the Education Code,
2 to read:

3 35031.5. Notwithstanding any other provision of law,
4 commencing on January 1, 2010, the governing board of a school
5 district shall include each of the following provisions in any
6 contract for the services of a district superintendent:

7 (a) The governing board shall have the authority to terminate
8 the district superintendent at any time during the term of the

1 contract. However, if the amount owing to the superintendent
2 pursuant to the contract is less than fifty thousand dollars
3 (\$50,000), the governing board shall have the option of either of
4 the following:

5 (1) Releasing the former district superintendent from any further
6 responsibilities with the district. If the district chooses to release
7 the former district superintendent pursuant to this paragraph, the
8 former district superintendent shall agree that any income he or
9 she earns during the term of the contract as the superintendent or
10 chief executive officer of a school district in the United States shall
11 be offset from the amount otherwise owed to the former district
12 superintendent under the contract.

13 (2) Providing the former district superintendent with a full-time
14 position with the district for which the former district
15 superintendent is qualified. If this option is chosen by the governing
16 board, the district superintendent shall serve in that capacity for
17 the remainder of the term of the contract and shall be compensated
18 in accordance with that contract. If the former district
19 superintendent declines to take the position offered to him or her
20 under this paragraph, he or she shall be deemed to be in breach
21 of the contract and the district shall be relieved of any obligation
22 to compensate the former district superintendent.

23 (b) If the governing board terminates the district superintendent
24 pursuant to subdivision (a) and the amount remaining in the
25 contract is fifty thousand dollars (\$50,000) or more, the governing
26 board shall not have the option specified in paragraph (1) of
27 subdivision (a), but instead shall proceed according to paragraph
28 (2) of subdivision (a).

29 (c) The district superintendent shall receive no retirement,
30 medical, dental, or other benefits that would exceed the benefits
31 that any certificated employee of that district receives. The district
32 may compensate a former superintendent terminated pursuant to
33 this section for any retirement, medical, dental, or other benefits
34 actually earned during the term of the contract.

35 SECTION 1. ~~Section 35031.5 is added to the Education Code,~~
36 ~~to read:~~

37 ~~35031.5.—(a) Notwithstanding any other provision of law,~~
38 ~~commencing January 1, 2010, the governing board of a school~~
39 ~~district shall not enter into an employment contract with a district~~
40 ~~superintendent that contains provisions that obligate the district~~

1 or school to compensate the district superintendent for work that
2 he or she has not performed.
3 (b) ~~Notwithstanding any other provision of law, commencing~~
4 ~~January 1, 2010, the governing board of a school district shall~~
5 ~~include in any contract for the services of a district superintendent~~
6 ~~a provision that the district superintendent shall receive no~~
7 ~~retirement, medical, dental, or other benefits that would exceed~~
8 ~~the benefits that a civil service employee of that district with a~~
9 ~~substantially similar salary would earn during an equivalent period~~
10 ~~of service.~~